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8 Deutsche Bank National Trust Company, as Trustee for Holders of the BCAP LLC Trust 2007-
AA3
9 *Attorneys for Secured Creditor*

10
11 **UNITED STATES BANKRUPTCY COURT**
12 **DISTRICT OF NEVADA**

13 In re:
14 REGAL PROPERTY HOLDINGS, INC.,
15 RICHARD N. ROBERTS and JANE S.
16 ROBERTS,
17 Debtors.

Case No.: BK-S-13-13969-BTB
Chapter 11

Joint Administration With:
Case No.: BK-S-13-13968-BTB

18 **OBJECTION TO CONFIRMATION OF DEBTORS' PLAN OF REORGANIZATION**
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20 COMES NOW Deutsche Bank National Trust Company, as Trustee for Holders of the
21 BCAP LLC Trust 2007-AA3 ("Secured Creditor") and files this objection to confirmation of
22 debtors' plan of reorganization, stating as follows:

23 Secured Creditor is the first deed of trust holder on 532 Tuscany View Street, Las
24 Vegas, NV 89145 ("Subject Property"), and was owed \$94,840.36 at the time the bankruptcy
25 petition was filed. On or about January 18, 2007, the debtors entered into a note agreement in
26 the amount of \$435,000.00. The note is secured by a deed of trust against the Subject Property.
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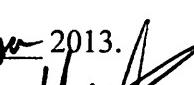
1 On July 19, 2013, the debtors filed their proposed plan. Secured Creditor objects to the
2 proposed treatment. Secured Creditor is identified as Class 3 and the debtors propose that
3 Secured Creditor's claim will be paid \$94,840.36 at 4.75% for 30 years.

4 Secured Creditor objects to the proposed interest rate of 4.75% as it is not adequate
5 based on the debtors' risk factors and considering the original interest rate was 6.5%. *See, Till*
6 *v. SCS Credit Corp.*, 541 U.S. 465 (2004). Secured Creditor submits that an interest rate of
7 5.25% is more appropriate because the standard for interest rate is the prime rate plus a risk
8 factor. The prime rate is currently 3.25% and an appropriate risk factor of 2.0% is
9 appropriate. An interest rate of 5.25% would be consistent with the interest rate in other similar
10 cases.

11 Furthermore, the automatic stay should be vacated upon confirmation so that if the
12 debtor fails to make post-confirmation payments, the Secured Creditor may proceed with its
13 foreclosure rights pursuant to the deed of trust and state law without further court involvement.

14 Pursuant to 11 USC 1129(a)(8), this court can only confirm a plan if a class has
15 accepted the plan or that class is not impaired under the plan. Secured Creditor is impaired
16 under the plan and has not accepted the plan. Therefore, this court cannot confirm the
17 proposed plan. The plan also fails to satisfy the requirements of 11 USC 1129(10) because
18 Secured Creditor is unaware of any impaired class that has accepted the plan.

19 DATED this 13 day of December 2013.

20 
21 **TIFFANY & BOSCO, P.A.**

22 /s/ Gregory L. Wilde, Esq.

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8 Deutsche Bank National Trust Company, as Trustee for Holders of the BCAP LLC Trust 2007-AA3
9 13-72972

10 **UNITED STATES BANKRUPTCY COURT**
11 **DISTRICT OF NEVADA**

12 In Re:

BK-S-13-13968-btb

13 Richard N. Roberts and Jane S. Roberts

Chapter 11

Debtors.

14 **CERTIFICATE OF MAILING**

- 15 1. On December 13, 2013, I served the following documents(s):

16 *OBJECTION TO CONFIRMATION OF DEBTORS' PLAN OF REORGANIZATION*

- 17 2. I served the above-named document(s) by the following means to the persons as listed below:

18 ■ a. ECF System

19 The Schwartz Law Firm
20 bryan@schwartzlawyers.com
21 Attorney for Debtors

U.S. Trustee - LV - 11
ustpregion17.lv.ecf@usdoj.gov
22 Trustee

■ b. United States mail, postage fully prepaid

Richard N. Roberts and Jane S. Roberts
4750 N. Jensen Street
Las Vegas, NV 89129
Debtors

□ c. Personal Service (List persons and addresses. Attach additional paper if necessary)

I personally delivered the document(s) to the persons at these addresses:

- 1 For a party represented by an attorney, delivery was made by handing the document(s) to the
2 attorney's office with a clerk or other person in charge, or if no one is charge by leaving the
3 document(s) in a conspicuous place in the office.

- 4 For a party, delivery was made by handing the document(s) to the party or by leaving the
5 document(s) at the person's dwelling house or usual place of abode with someone of suitable age
6 and discretion residing there.

7 **d. By direct mail (as opposed to through the ECF System)**

8 *(List persons and email addresses. Attach additional paper if necessary)*

9 Based upon the written assignment of the parties to accept service by email or a court order. I
10 caused the document(s) to be sent to the persons at the mail addresses listed below. I did not
11 receive, within a reasonable time after the transmission, any electronic message or other
12 indication that the transmission was unsuccessful.

13 **e. By fax transmission (List persons and fax numbers. Attach additional paper if necessary)**

14 Based upon the written assignment of the parties to accept service by fax transmission or
15 a court order. I faxed the document(s) to the persons at the fax numbers listed below. No error
16 was reported by the fax machine that I used. A copy of the record of the fax transmission is
17 attached.

18 **f. By messenger (List persons and addresses. Attach additional paper if necessary)**

19 I served the document(s) by placing them in an envelope or package addressed to the
20 persons at the addresses listed below and providing them to a messenger for service.

21 *(A declaration by the messenger must be attached to this Certificate of Service).*

22 **I declare under penalty of perjury that the foregoing is true and correct.**

23 Signed on (date): December 13, 2013

24 Jennifer L. Reedy

25 **DECLARANT**

26 **SIGNATURE OF DECLARANT**

